

1 been duly sworn, was examined and testified as follows:

2 DIRECT EXAMINATION BY MR. EVANS:

3 Q. Miss Flemming, that mike does not amplify your  
4 voice; so I want you to speak loud. Okay.

5 Let's start over. State your name, please.

6 A. Clemmie Fleming.

7 Q. You don't even have to speak into it. Just sit back  
8 and speak loud.

9 A. Clemmie Fleming.

10 Q. Miss Fleming, I want to direct your attention back  
11 to July 16, 1996, and ask you what your physical condition was  
12 at that time.

13 A. I was pregnant.

14 Q. How far along were you?

15 A. Five months.

16 Q. Okay. Did you have a reason and a need to go to  
17 Tardy Furniture that day?

18 A. Yes, sir.

19 Q. What was that?

20 A. To pay on my furniture.

21 Q. All right. Did you get anyone to take you to Tardy  
22 Furniture?

23 A. Yes, sir.

24 Q. Who was that?

25 A. Roy Harris.

26 Q. Roy Harris.

27 A. Yes, sir.

28 Q. Speak up just a little bit.

29 A. Yes, sir.

1 Q. Do you know what time that you went to Tardy  
2 Furniture?

3 A. About 10:00.

4 Q. And why did you go?

5 A. To pay on my furniture.

6 Q. Did he carry you to the store?

7 A. Yes, sir.

8 Q. Did you go in the store?

9 A. No, sir.

10 Q. Why not?

11 A. I didn't feel like it.

12 Q. Okay. And why did you not feel like it?

13 A. Because I was pregnant.

14 Q. Okay. Once you decided not to go in the store, what  
15 did you do?

16 A. We left. And I was going to go to my sister's  
17 house.

18 Q. Where does she live?

19 A. On Academy.

20 Q. Okay. Before you decided not to go in because you  
21 didn't feel good, did y'all actually pull up to the store or  
22 drive by it or what did y'all do?

23 A. We pull up to the store.

24 Q. The front of it?

25 A. Yes, sir.

26 Q. Did you see anyone at that time?

27 A. No, sir.

28 Q. Which direction did you go after you left the front  
29 of Tardy Furniture?

1 A. On the side of Tardy.  
2 Q. On the side of Tardy's.  
3 A. Yes, sir.  
4 Q. Do you know the name of that street?  
5 A. Carrollton Avenue.  
6 Q. When you turned on to that street, did you see  
7 anyone?  
8 A. Yes, sir.  
9 Q. Who did you see?  
10 A. Curtis.  
11 Q. Curtis who?  
12 A. Flowers.  
13 Q. What was he doing?  
14 A. Running.  
15 Q. Which direction was he running?  
16 A. Towards the pink house.  
17 Q. Would that be toward or away way from Tardy  
18 Furniture?  
19 A. Away.  
20 Q. He was running away from the direction of Tardy  
21 Furniture.  
22 A. Yes, sir.  
23 Q. How was he running?  
24 A. Running real fast.  
25 Q. Would you consider it a jog or an all-out run?  
26 A. An all-out run.  
27 Q. Where did you see him run to?  
28 A. Across the pink -- it used to be a pink house down  
29 there across the yard.

1 Q. Okay. Which direction -- well, first, what caught  
2 your eye to him? Why, why did you notice Curtis Flowers  
3 running that morning?

4 A. Because he was running.

5 Q. Did that appear unusual to you?

6 A. Well, sometime I see him; sometimes I didn't.

7 Q. Okay. Had you ever seen him down in that area  
8 running before?

9 A. No, sir.

10 Q. How long had you known him?

11 A. Ever since I was old enough to know him.

12 Q. So all your life.

13 A. Yes, sir.

14 Q. Any question in your -- in your ability to say for  
15 sure that that was Curtis Flowers you saw?

16 A. Yes, sir. It look like him. It was him.

17 Q. Okay. How close a look did you get?

18 A. I wasn't right up on him, but I could tell that it  
19 was him.

20 Q. You could tell it was him.

21 Which direction did y'all go from there?

22 A. Up to -- up, up Carrollton Avenue. This little  
23 road. I forgot what the name is.

24 Q. If you can't remember the name of the road, just  
25 tell me which direction you turned.

26 A. We turned left.

27 Q. Okay. After you turned left, what did you do?

28 A. We went on up to Powell Street.

29 Q. Okay. When you got to Powell Street, what did you

1 do?

2 A. Went down Powell Street and came back up 51.

3 Q. All right. So you turned, would it be to the right  
4 on Powell Street or the left?

5 A. Go to -- when you get on Powell Street, you turn  
6 right.

7 Q. Okay.

8 A. To get on Powell Street.

9 Q. Okay. Once you got to 51, what did you do?

10 A. Took another right.

11 Q. Took another right. And what did you do after you  
12 got on 51?

13 A. Went on up. And I seen him again.

14 Q. You seen him again.

15 A. (Nodded.)

16 Q. Who did you see again?

17 A. Curtis.

18 Q. Where was he at that time?

19 A. Coming across the highway.

20 Q. Across the highway.

21 A. Yes, sir.

22 Q. At what location?

23 A. By Stop-n-Go.

24 Q. Was he still running?

25 A. Yes, sir.

26 Q. Okay. So y'all didn't go directly to Stop-n-Go.  
27 Y'all went around a couple of streets; is that correct?

28 A. Yes, sir.

29 Q. When you saw him running across the highway at

1 Stop-n-Go, did you notice which direction he went at that  
2 time?

3 A. His daddy work down at Stop-n-Go. I figure he was  
4 going to the store with his daddy.

5 Q. Okay. So you knew the whole family.

6 A. Yes, sir.

7 Q. And you knew his daddy worked there, and you just  
8 assumed that he was going, running to see his daddy.

9 A. Yes, sir.

10 Q. And this was what time of the morning?

11 A. About 10:00 in the morning.

12 Q. Would you point to and identify the person you saw  
13 running away from Tardy Furniture that morning?

14 A. Right there. (Pointed.)

15 MR. EVANS: May the record reflect that she has  
16 identified the defendant?

17 THE COURT: Let it so reflect.

18 MR. EVANS: Tender the witness, Your Honor.

19 MR. DEGRUY: Thank you, Your Honor.

20 MR. HILL: Wait a minute.

21 MR. EVANS: One second.

22 MR. HILL: Can we have the Court's indulgence a  
23 minute, Your Honor?

24 THE COURT: Sure.

25 MR. EVANS: Just a second, Your Honor.

26 See if we can find the right one.

27 Your Honor, may I have the witness step down?

28 THE COURT: You may step down, Miss Fleming.

29 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

1 Q. (By Mr. Evans:) Miss Fleming, I want you to stand  
2 back just a little where the jury can see this. Don't block  
3 any of them. Can you tell if this is the street that runs  
4 down by Tardy Furniture or not?

5 A. Yes, sir.

6 Q. Is that the street that you are saying that you went  
7 down after you left Tardy Furniture?

8 A. Yes, sir.

9 Q. Do you see the approximate area that you first saw  
10 Curtis Flowers running in?

11 A. (Indicated.)

12 Q. All right. You are pointing to a red "X". Did you  
13 personally place that red "X" on this drawing at an earlier  
14 time?

15 A. Yes, sir.

16 Q. And is that where you first saw him running?

17 A. Yes, sir.

18 Q. You may take your seat.

19 A. (Complied.)

20 MR. EVANS: Tender the witness.

21 THE COURT: You may proceed.

22 CROSS-EXAMINATION BY MR. DEGRUY:

23 Q. Good afternoon, Miss Fleming. This person you saw  
24 running, what was he wearing?

25 A. I don't know what he was wearing.

26 Q. You didn't -- you didn't notice any clothes he was  
27 wearing.

28 A. No, sir.

29 Q. Was he wearing short pants?

1           A.    I don't know.  I just know his face.

2           Q.    Did you get a -- you're watching for a little while

3 or just make a quick glance?

4           A.    Just a quick glance.

5           Q.    You saw him twice though; right?

6           A.    Yes, sir.

7           Q.    Was he sweating a lot?

8           A.    I couldn't tell.

9           Q.    Couldn't tell.

10          A.    (Shook head.)

11          Q.    Was he carrying anything?

12          A.    I don't know.

13          Q.    You didn't see anything.

14          A.    (Shook head.)

15          Q.    Now, did you go to your sister's house --

16          A.    Yes, sir.

17          Q.    -- after?  You didn't tell her anything about seeing

18 anybody running, did you?

19          A.    She, she didn't ask.

20          Q.    And you didn't tell the police about, about seeing

21 Curtis running until April of 1997; is that right?

22          A.    Yes, sir.

23          Q.    That was long after they had rewards out for people.

24          A.    Yes, sir.

25          Q.    Do you know Stacey Wright and Latarsha Blissett?

26          A.    Yes, sir.

27          Q.    Are they friends of yours?

28          A.    Cousins.

29          Q.    Cousins.  Now, you tell us you owed some money on



1 furniture back in July; right? Is that -- is that why you  
2 went down to Tardy?

3 A. Yes, sir.

4 Q. You never did pay that bill, did you?

5 A. No, sir.

6 MR. DEGRUY: That's all I have, Your Honor.

7 THE COURT: Redirect?

8 REDIRECT EXAMINATION BY MR. EVANS:

9 Q. People that he has asked you about knowing, have  
10 they tried to get you to change your testimony in any way?

11 A. No, sir.

12 Q. They hadn't come to you and asked you to change your  
13 story to help Curtis.

14 A. No, sir.

15 Q. Okay. Is what you are telling the ladies and  
16 gentlemen of this jury the truth?

17 A. Yes, sir.

18 Q. Have you ever received one penny of reward?

19 A. No, sir.

20 Q. Is anything that you are doing for a reward?

21 A. No, sir.

22 Q. You are saying the same thing that you have said  
23 since 1996; is that right?

24 A. Yes, sir.

25 Q. And as far as you paying on your bill, there was a  
26 cosigner on your bill, wasn't there?

27 A. Yes, sir.

28 Q. Who was that?

29 A. My brother.

1 Q. What's his name?

2 A. Robert Fleming.

3 Q. Are you aware that after all of this was over, that  
4 Tardy Furniture filed and got a judgment against your brother,  
5 Robert Fleming, for the amount of that debt?

6 A. No, sir.

7 MR. EVANS: Nothing further.

8 THE COURT: Miss Fleming, you may step down.

9 I assume she is excused.

10 MR. EVANS: Yes, sir.

11 THE COURT: You are free to go, Miss Fleming.

12 MR. EVANS: Your Honor, we have got a long  
13 transcript I guess we need to read.

14 THE COURT: Ladies and gentlemen, I, I know the  
15 length of the transcript. I figure we will read about  
16 half of it today and half of it tomorrow.

17 Ladies and gentlemen, I will let you stretch and  
18 move a few minutes before this starts, because it will  
19 probably be taxing on you. So I will allow a recess.

20 (A RECESS WAS TAKEN.)

21 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER AND MR.  
22 CARTER APPROACHED THE BENCH FOR A BENCH CONFERENCE HAD OUTSIDE  
23 THE HEARING OF THE COURTROOM AUDIENCE. THE BENCH CONFERENCE  
24 WAS REPORTED BUT NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

25 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.  
26 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.  
27 PROCEEDINGS WERE AS FOLLOWS:)

28 THE COURT: If you will, bring the ladies and  
29 gentlemen of the jury.